

Message Text

CONFIDENTIAL

PAGE 01 STATE 103970

64

ORIGIN EA-14

INFO OCT-01 ISO-00 L-03 PM-07 DODE-00 CIAE-00 INR-10

NSAE-00 RSC-01 OMB-01 TRSE-00 /037 R

DRAFTED BY EA/PHL:MMEASTON:SAFBC:BWALLEN:PAW

APPROVED BY EA/PHL:DCCUTHELL

L/EA:CROH (DRAFT)

L/PM:JHMICHEL (DRAFT)

OSD/ISA/EA&PR:CAPT. SHAID (DRAFT)

OGC(IA):MR. ALMOND (DRAFT)

NAVY JAG:MAJ. GEHRING (DRAFT)

OASD/ISA/FMRA:PBARRINGER (DRAFT)

----- 068004

P R 172244Z MAY 74

FM SECSTATE WASHDC

TO AMEMBASSY MANILA PRIORITY

INFO CINCPAC HONOLULU HI

C O N F I D E N T I A L STATE 103970

E.O. 11652: GDS

TAGS:MARR, RP

SUBJECT: MBA NEGOTIATIONS, ARTICLE V - CUSTOMS DUTIES AND
OTHER TAXES

REF: MANILA 3370

CINCPAC ALSO FOR POLAD

1. UPON RESUMPTION OF TECHNICAL LEVEL TALKS EMBASSY IS
AUTHORIZED TO TABLE DRAFT ARTICLE V AND IMPLEMENTING NOTE
SET FORTH REFTEL AS MODIFIED BELOW. CHANGES ARE CONSIDERED
SELF-EXPLANATORY. IF EMBASSY HAS ANY COMMENTS OR QUESTIONS
REGARDING CHANGES PLEASE ADVISE.

2. CHANGE TITLE OF ARTICLE V TO "EXEMPTION FROM CUSTOMS
DUTIES AND TAXES."

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 STATE 103970

3. FOLLOWING CHANGES SHOULD BE MADE TO DRAFT IMPLEMENTING

NOTE:

A. IN FIRST PARAGRAPH OF NOTE, INSERT "DUTIES AND" BEFORE THE WORD "TAXES." DELETE "ENCOURAGE, TO THE MAXIMUM EXTENT POSSIBLE," AND SUBSTITUTE "FACILITATE."

B. AMEND SECOND PARAGRAPH OF NOTE TO READ AS FOLLOWS: "AS PROVIDED IN ARTICLE V OF THE MILITARY BASES AGREEMENT, ALL MATERIAL, EQUIPMENT, SUPPLIES AND GOODS IMPORTED BY THE UNITED STATES MILITARY AUTHORITIES FOR EXCLUSIVE USE IN THE CONSTRUCTION, MAINTENANCE, OPERATION OR DEFENSE OF THE BASES, INCLUDING ITEMS IMPORTED FOR THE USE OF PRIVATE CONTRACTORS OF THE U.S. FORCES, SHALL BE EXEMPT FROM CUSTOMS DUTIES AND TAXES OF ANY KIND. THE PROCEDURES FOR PROCESSING SUCH IMPORTATIONS SPECIFIED IN THE EXCHANGE OF NOTES OF APRIL 24, 1969 SHALL APPLY. GOODS IMPORTED THROUGH THE AGENCY OF PRIVATE CONTRACTORS AND DESTINED EXCLUSIVELY FOR AND USED, INCORPORATED, OR CONSUMED IN THE CONSTRUCTION, OPERATION, MAINTENANCE, OR DEFENSE OF THE BASES SHALL BE EQUALLY EXEMPT FROM CUSTOMS DUTIES AND TAXES OF ANY KIND. THE PROCEDURES FOR EFFECTING SUCH EXEMPTION SPECIFIED IN THE EXCHANGE OF NOTES OF DECEMBER 29, 1952, AS AMENDED, SHALL APPLY."

C. AMEND THE THIRD PARAGRAPH OF THE IMPLEMENTING NOTE TO READ AS FOLLOWS: "WITH REGARD TO CONTRACTS FOR PROCUREMENT IN THE PHILIPPINES BY UNITED STATES MILITARY AUTHORITIES OF MATERIAL, EQUIPMENT, SUPPLIES, GOODS, OR SERVICES, THE FOLLOWING PROCEDURES SHALL APPLY:

(1) THE CONTRACT SHALL CLEARLY IDENTIFY ALL TAXES, DUTIES AND IMPOSTS APPLICABLE TO THE TRANSACTION FROM WHICH EXEMPTION IS TO BE OBTAINED.

(2) THE UNITED STATES CONTRACTING OFFICER SHALL PREPARE A TAX EXEMPTION CERTIFICATE IN THE FORM SPECIFIED IN ANNEX A, WHICH SHALL CLEARLY IDENTIFY THE CONTRACT BY REFERENCE TO THE NAME OF THE CONTRACTOR, THE DATE, A BRIEF DESCRIPTION OF THE ITEMS OR SERVICES BEING PURCHASED, AND A LISTING OF ALL IDENTIFIABLE TAXES, DUTIES AND
CONFIDENTIAL

CONFIDENTIAL

PAGE 03 STATE 103970

IMPOSTS WHICH ARE APPLICABLE TO THE TRANSACTION AND WHICH ARE INCLUDED AS A PART OF THE CONTRACT OR PURCHASE PRICE, OR WHICH CONSTITUTE A SURCHARGE ON PRICE.

(3) THE UNITED STATES CONTRACTING OFFICER SHALL FURNISH TWO COPIES OF THE TAX EXEMPTION CERTIFICATE TO THE CONTRACTOR, AND WITHIN TEN DAYS OF THE DATE OF THE TAX EXEMPTION CERTIFICATE, SHALL ALSO SUBMIT THE ORIGINAL AND TWO COPIES OF THE TAX EXEMPTION CERTIFICATE TO THE

DEPARTMENT OF FINANCE.

(4) THE TAX EXEMPTION CERTIFICATE SHALL BE SUBMITTED FOR ENDORSEMENT BY THE DEPARTMENT OF FINANCE, AND UPON ENDORSEMENT, ONE COPY SHALL BE RETURNED TO THE UNITED STATES CONTRACTING OFFICER AND ONE COPY SHALL BE SENT TO THE CONTRACTOR. EXEMPTIONS UNDER THIS PARAGRAPH SHALL BE ALLOWED PROVIDED THAT PROCUREMENT IS MADE DIRECTLY FROM PRODUCERS OR MANUFACTURERS OR THEIR FIRST DISTRIBUTOR. WHEN PURCHASES ARE MADE FROM LOCAL IMPORTERS THE TAX

EXEMPTION CERTIFICATE WILL NORMALLY BE OBTAINED PRIOR TO PAYMENT BY THE IMPORTER OF CUSTOMS DUTIES AND TAXES IN ORDER TO AVOID THE NECESSITY FOR PROCESSING CLAIMS FOR REBATE."

D. THE FIRST SENTENCE OF THE FOURTH PARAGRAPH OF THE IMPLEMENTING NOTE SHOULD BE AMENDED TO READ AS FOLLOWS:
"THE GOVERNMENT OF THE PHILIPPINES WILL REFUND TO THE UNITED STATES GOVERNMENT THE CUSTOMS DUTIES PAID ON CRUDE OIL IMPORTED FOR USE IN THE PRODUCTION OF REFINED PETROLEUM PRODUCTS PURCHASED BY THE UNITED STATES MILITARY AUTHORITIES."

E. THE LAST SENTENCE OF THE PENULTIMATE PARAGRAPH OF THE IMPLEMENTING NOTE SHOULD BE AMENDED TO READ AS FOLLOWS:
"SHOULD ANY PRESENT OR FUTURE PHILIPPINE DUTIES, TAXES OR IMPOSTS, NOT SPECIFICALLY INCLUDED IN THIS AGREEMENT, BE FOUND TO CONSTITUTE AN IDENTIFIABLE PART OF THE PURCHASE PRICE OF MATERIAL, SUPPLIES, EQUIPMENT, GOODS, OR SERVICES PROCURED BY THE UNITED STATES MILITARY AUTHORITIES FOR OFFICIAL PURPOSES, THE TWO GOVERNMENTS WILL IMMEDIATELY INITIATE CONSULTATIONS WITH A VIEW TO AGREEMENT ON A
CONFIDENTIAL

CONFIDENTIAL

PAGE 04 STATE 103970

PROCEDURE FOR EFFECTING EXEMPTION OR OTHER RELIEF THEREFROM."

RUSH

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AGREEMENT DRAFT, CUSTOMS DUTIES, MILITARY BASES, NEGOTIATIONS, AMENDMENTS, DIPLOMATIC NOTES, TAX RELIEF
Control Number: n/a
Copy: SINGLE
Draft Date: 17 MAY 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: GarlanWA
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974STATE103970
Document Source: CORE
Document Unique ID: 00
Drafter: MMEASTON:SAFBC:BWALLEN:PAW
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D740123-0286
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740537/aaaabgol.tel
Line Count: 158
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN EA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: MANILA 3370
Review Action: RELEASED, APPROVED
Review Authority: GarlanWA
Review Comment: n/a
Review Content Flags:
Review Date: 08 AUG 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <08-Aug-2002 by shawdg>; APPROVED <24 FEB 2003 by GarlanWA>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: MBA NEGOTIATIONS, ARTICLE V - CUSTOMS DUTIES AND OTHER TAXES
TAGS: MARR, RP, US
To: MANILA
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005